



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
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JANICE K. BREWER
Governor

J. D. GHELFI
Board Chair

ALAN EVERETT
Director

Arizona State Liquor Board Hearing Minutes
July 12, 2012

Members Present: J.D. Ghelfi -Chair, Mike Farley -Vice-Chair, Bill DuPont, Robin Cantrell, Tim Linden, Vikki Scarafiotti

Members Absent: Jim Carruthers

Counsel Present: Sarah Selzer, Assistant Attorney General
Mary Williams, Assistant Attorney General

Staff Present: Stefanie Murphy, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on July 12, 2012 at 10:02 a.m. in the Pima County Board of Supervisors' Hearing Room at 130 W. Congress, 1st Floor, Tucson, Arizona 85701 with Mr. Ghelfi presiding.

Roll Call

Carruthers was absent. All other board members were present.

B. 10:00 a.m. Agenda: review, consideration and action

1. Beer and Wine Bar Liquor License No. 07100203- Person & Location Transfer Application

From:

Ryan Michael Schoff
Pita Jungle
Meritage Investors I, LP
5340 E. Broadway Boulevard
Tucson, AZ 85711

To:

Ricky Lynn Riddle, Agent
Bear Track Bistro & Winery
Bear Track, Inc.
4743 E. Sunrise Drive
Tucson, AZ 85718

This matter was set for hearing because Pima County recommended disapproval of this application. The applicant, Ricky Lynn Riddle, appeared at the hearing and was represented by counsel, Thomas Aguilera. Kevin Kramber also appeared on behalf of the applicant. There was no one present for Pima County.

Mr. Aguilera asked that the Board combine the hearings for the applications listed as items #1 and #2 as they are for the same applicant and location. Mr. Aguilera made opening statements and referenced the hearing before the County Board of Supervisors held on June 19, 2012 and discussed his client's qualifications and why the interest of the community would be served with the issuance of these licenses.

Mr. Riddle was called as witness and was sworn and testified. He explained that he held liquor licenses in the past including a wine growers license in New Mexico with three off-site tasting rooms. He testified that he had completed basic and management liquor law training in Arizona. There was discussion regarding an application for

a Series 12 restaurant liquor license at the location and that there was no church or school in the area and no public protest filed. He also stated that he did not receive violations or citations in New Mexico.

Mr. Kramber was called as witness and was sworn and testified. He stated that he helped the applicant find the business location, assisted with the lease agreement and worked with the Pima County Planning and Zoning Department for these applications. He explained that the Series 7 and 13 liquor licenses could not be used until the applicant obtained a Series 12 restaurant liquor license also. He testified that he provided the liquor law training to the applicant. He stated that the lease is contingent upon the issuance of the liquor licenses. Mr. Ghelfi verified that they plan to stack the Series 7, 12 and 13 at the location. Ms. Cantrell asked questions about the kitchen diagram and equipment. Mr. Linden made a motion to convene in executive session to receive legal advice.

Motion to convene in executive session for legal advice -	Linden
Seconded -	Scarafiotti
Yay -	Ghelfi, Farley, DuPont, Cantrell, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Convened in executive session

The Board convened in executive session at 10:27 a.m. and reconvened in open session at 10:35 a.m.

Mr. Aguilera made closing statements. Mr. Linden made a motion to grant Liquor License No. 07100203 and 13103005 based on the applicant's prior experience in operating a similar license for wine in New Mexico without incident, management experience and training in licensing and based on the lack of this type of facility in the area.

Motion to grant -	Linden
Seconded -	DuPont
Yay -	Ghelfi, Farley, DuPont, Cantrell, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	License granted

2. Domestic Farm Winery Liquor License No. 13103005- Original Application

Ricky Lynn Riddle, Agent
Bear Track Bistro & Winery
Bear Track, Inc.
4743 E. Sunrise Drive
Tucson, AZ 85718

See testimony and motion from above.

Motion to grant -	Linden
Seconded -	DuPont
Yay -	Ghelfi, Farley, DuPont, Cantrell, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	License granted

3. Restaurant Liquor License No. 12104168- Original Application

Oscar Rembao, Agent
Chickenuuevo
OSSO, LLC
4820 S. 6th Avenue
Tucson, AZ 85714

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The applicant, Oscar Rembao, appeared at the hearing and was not represented by counsel. Dewey Zufelt was present at the hearing and was sworn and testified on behalf of the applicant. Assistant City Prosecutor Stacy Stauffer appeared on behalf of the City of Tucson. Protestor Yolanda Herrera was present on behalf of the Sunnyside Neighborhood Association.

Mr. Rembao waived his right and proceeded without counsel. There was discussion regarding the applicant's limited English and concerns proceeding without a certified interpreter. Mr. Ghelfi made a motion to convene in executive session to receive legal advice.

Motion to convene in executive session for legal advice -	Ghelfi
Seconded -	Linden
Yay -	Ghelfi, DuPont, Cantrell, Linden, Carruthers, Farley, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 10:48 a.m. and reconvened in open session at 10:50 a.m.

Mr. Ghelfi noted that he was not comfortable proceeding without an interpreter and wanted to protect the rights of the applicant and the City. Mr. Ghelfi made a motion to continue the matter to August 2, 2012 to allow for the applicant to obtain an interpreter.

Motion to continue -	Ghelfi
Seconded -	Farley
Yay -	Ghelfi, Farley, DuPont, Cantrell, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Continued to the August 2, 2012 meeting

4. Bar Liquor License No. 06100244- Person Transfer Application

From:	To:
John David Huff, Agent	Michael Conrad Kramkowski, Agent
Woody's	Woody's
Post-Gran Inc.	Krism LLC
3710 N. Oracle Road	3710 N. Oracle Road
Tucson, AZ 85705	Tucson, AZ 85705

This matter was set for hearing due to public protest. The applicant, Michael Conrad Kramkowski, appeared at the hearing and was represented by counsel, Thomas Aguilera. There were no public protestors present. Mr. Ghelfi noted that personal qualification would only be addressed.

Mr. Aguilera waived opening statements. Mr. Kramkowski was called as witness and was sworn and testified. He discussed his background in the liquor industry including purchasing a bar at age 29 which he owned for eight years. He noted that he was current on his taxes, completed basic and management liquor license training, and was currently operating on an interim permit with no violations. He stated that he worked with the neighborhood when he purchased Woody's. Ms. Scarafiotti asked to applicant to provide examples of his work with the neighborhood and how the issues were resolved. Mr. DuPont asked if he had meet with the property management company. Mr. Ghelfi noted that location was not an issue.

Mr. DuPont made a motion to grant Liquor License No. 06100244 based on the applicant's willingness to work with the neighborhood to resolve issues, the applicant's experience and training in liquor and based on the City of Tucson Mayor and Council recommendation of approval.

Motion to grant -	Carruthers
Seconded -	Farley
Yay -	Ghelfi, Farley, DuPont, Cantrell, Linden, Carruthers, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	License granted

5. Beer & Wine Store Liquor License No. 10103650- Original Application

Thomas Robert Aguilera, Agent
 Blue Star Gas Station
 Blue Star Gas Station, LLC
 3774 S. 6th Avenue
 Tucson, AZ 85713

This matter was set for hearing because the City of Tucson recommended disapproval of this application and due to public protest. The agent, Thomas Robert Aguilera, and the applicant, Najib Mohamed Ali Alghaithi, appeared at the hearing and were sworn and testified. Kevin Kramber, Joe Flores and Henry Vega Sr. of the Rose Neighborhood Association were also present at the hearing and were sworn and testified on behalf of the applicant. Assistant City Attorney Stacy Stauffer and Officer Mark Schur appeared on behalf of the City of Tucson. Protestor Nelda Ruiz appeared on behalf of Tierra Y Libertad Organization and was sworn and testified.

Ms. Ruiz asked if there would be an opportunity for the protestors present to speak and Mr. Ghelfi answered that she could advocate on their behalf. Ms. Stauffer asked if the Board would address other protest letters filed. Mr. Aguilera noted an objection based on the letters not meeting the requirements. The Pueblo Magnet School letters of protest were excluded as they did not meet the requirements and were found invalid. Mr. Ghelfi allowed the following protestor's names to be entered for the record: Jesus Aguilera, Carlos Valenzuela, Claudio Rodriguez, Carmen Varela, Miriam Rojas, Ramona Ruiz, Erika Toledo, Jesus Romero, Edgar Toledo, Luis Alberto Perales, Oscar Medina, Nicole Trujillo, Imelda Cortez, Stephanie Schneider, Michele Hilbert, Kathy Xiong, Manuel Lopez, Cesar Lopez, Christine Carter, Joaquin Mescalito Ramos, Ernesto Mireles and Johnny Avalos Rios. Mr. Aguilera noted an objection. There was discussion regarding rebuttable presumption. Ms. Scarafiotti made a motion to convene in executive session to receive legal advice.

Motion to convene in executive session for legal advice -	Scarafiotti
Seconded -	DuPont
Yay -	Ghelfi, DuPont, Cantrell, Linden, Farley, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 11:27 a.m. and reconvened in open session at 11:48 a.m.

Mr. Ghelfi noted that procedurally they would establish if presumption exists. Mr. Aguilera addressed how presumption applies and referenced a deed of trust. Mr. Aguilera noted that he disagreed with Mr. Ghelfi's reading. Ms. Stauffer noted that they had to rebut if in 1994 the location was appropriate. Mr. Ghelfi asked that Ms. Ruiz present what the neighborhood was like in 1994 and why the location was not appropriate. Mr. Ghelfi noted that this was an abnormal proceeding. He also asked the City to present a case as to why the location was not appropriate in 1994. Mr. Ghelfi asked that Ms. Ruiz gather information as the spokesperson for the protestors.

The Board recessed at 12:07 p.m. and reconvened at 1:19 p.m.

Mr. Aguilera made opening statements regarding personal qualifications. The City waived opening statements. Mr. Alghaithi was called as witness and testified. He discussed his personal background, education, work experience in the restaurant and liquor industry, and the business plan. He also discussed a site inspection conducted by an investigator and the compliance findings. The report was asked to be entered as exhibit and was shown to opposing

counsel. The City noted an objection and the report was not admitted. Mr. Alghaithi further discussed his work with the neighborhoods including Sunnyside and SNAPP to resolve issues regarding banners and signage and graffiti. He noted that he was current on taxes. During cross examination, Ms. Stauffer asked about the store hours, managers, training, and a past violation in New York.

The Board recessed at 1:58 p.m. and reconvened at 2:02 p.m.

Mr. Vega was called and witness and testified. He discussed his position as President/Chairman of the Rose Neighborhood Association and his relationship with the applicant. He noted that the applicant provides refreshments for the SNAPP meetings.

Mr. Kramber was called as witness and testified. He discussed his position as a certified liquor law trainer and stated that he provided management training to the applicant.

Mr. Flores was called as witness and testified. He discussed his personal and professional background as the owner of a shopping center. He stated that the applicant was a good tenant. Mr. DuPont asked about the efforts to resolve crime in the area. There were no further questions or witnesses.

The City made opening statements regarding location including distance to a church.

Officer Schur was called as witness and testified. He discussed his professional experience in the special investigations section and duties including research, backgrounds and measurements. He noted a discrepancy in measurement from a church to the building and stated that it was less than 300 feet from the corner of the building and that Mr. Aguilera performed a second measurement. He described the building and noted that part of the building was boarded off and not part of the licensed premise. He stated that he was not familiar with how measurements were taken in 1993-1994. Ms. Scarafiotti asked if it was typical to perform a second measurement. Officer Shur stated that measurements are taken from the point of sale and from outside the building. Mr. Linden asked about the repair and garage section of the building. Mr. Ghelfi asked if he was familiar with the area when it was a Shell gas station. Mr. DuPont asked if he was present at the Mayor and Council hearing. There was further discussion regarding the measurements performed including using a laser devise. Mr. Ghelfi made a motion to convene in executive session to receive legal advice.

Motion to convene in executive
session for legal advice -

Seconded -

Yay -

Nay -

Abstained -

Disposition -

Ghelfi

Scarafiotti

Ghelfi, DuPont, Cantrell, Linden, Farley, Scarafiotti

None

None

Convene in executive session

The Board convened in executive session at 2:35 p.m. and reconvened in open session at 2:42 p.m.

Ms. Ruiz was called as witness. She described the TYLO community group and their objectives including safety and sustainability. She was asked if TYLO was a legal entity or non-profit organization. Mr. Ghelfi noted that she could ask questions of the witnesses. Ms. Ruiz was asked about her personal experience with the liquor license process at the location in 1994 when it was a Shell gas station. She discussed violence in the area and Mr. Aguilera noted an objection due to hearsay. She was asked who she spoke to for reliability and she noted the daughter of the eldest neighborhood resident. She further discussed litter issues. She was asked to describe how she prepared for the hearing and the protest letters filed. She referenced a subpoena for records filed by Mr. Aguilera. She stated that her organization would have objected to the license in 1994. Ms. Ruiz described her residency in Tucson and Nogales in 1994. She was asked if she visited the Shell gas station when it was open and if liquor related issues changed after it closed. She stated she would support the business if alcohol was removed. She stated that the area has a high poverty rate, little access to healthy food options, and high access to fast food and alcohol. She describe efforts to build partnerships with non-alcohol businesses to transform the area. Ms. Scarafiotti thanked her for her efforts and service to the community. Ms. Scarafiotti asked if Ms. Ruiz thought she would be protesting location at today's hearing. There were no further questions.

Ms. Ruiz asked if she would like to ask questions. Mr. Aguilera noted an objection and asked why she could have the opportunity to ask questions when she was not licensed to practice law. The objection was noted. Ms. Ruiz asked about the future plans for the boarded up area of the building and plans to provide gas and fresh food options. There were additional questions for the applicant regarding public access, location, alcohol sales, residency, profits, community work, safety, underage prevention and employment opportunities. Ms. Ruiz asked Officer Shur a question regarding measurement. There were no further questions.

There was Board discussion. Mr. Farley noted that the applicant was entitled to a rebuttable presumption that the public convenience and best interest of the community at the location was established at the time this location was previously licensed under A.R.S. 4-203(A) and made a motion to remove the issue of location from the argument.

Motion to remove issue of location -Farley

Seconded -	Cantrell
Yay -	Ghelfi, Farley, DuPont, Cantrell, Linden, Scarafiotti
Nay -	None
Abstained -	None
Disposition -	Issue of location removed from argument

Mr. Aguilera noted that procedures were applied properly. Ms. Stauffer noted that the recommendation of denial was based on location and public protest and there were no arguments on personal qualification. Mr. DuPont expressed a need for education on the public protest process.

Mr. Linden made a motion to grant Liquor License No. 10103650 was based upon a liquor license previously approved at this location in 1994, the City of Tucson could not overcome the rebuttable presumption under A.R.S. 4-203(A) and therefore the issue of location was removed, the 300 foot rule issue was resolved, the applicant completed the appropriate liquor law training, the applicant had experience holding a liquor license with no violations and the applicant had experience working with the community.

Motion to grant -

Linden

Seconded -

Farley

Yay -

Ghelfi, Farley, DuPont, Cantrell, Linden, Scarafiotti

Nay -

None

Abstained -

None

Disposition -

License granted

C. 2012 Hearing Schedule (September-December):

Mr. Linden made a motion to approve meetings scheduled on the first Thursday of each month.

Motion to approve the first Thursday of each month- Linden

Seconded -

DuPont

Yay -

Ghelfi, Linden, DuPont, Cantrell, Farley, Scarafiotti

Nay -

None

Abstained -

None

Disposition -

Meeting to be scheduled the first Thursday of each month

D. Board training from Assistant Attorney General Sarah Selzer regarding HB2606 and changes to Title IV.

Mr. Farley made a motion to continue the training to the August 2, 2012 meeting. Mr. Farley withdrew the motion. Ms. Selzer discussed changes to A.R.S. §4-201(E) and the "no recommendation" process.

E. Call to the Public

None.

The Board adjourned at 4:39 p.m.

Denise Bale
DENISE FOR STEFANIE MURPHY
BALE Administrator of the
Arizona State Liquor Board

6/13/13

Date